

1
2
3
4
5
6 **UNITED STATES DISTRICT COURT**
7 **DISTRICT OF NEVADA**

8 BRIAN EUGENE LEPLEY,

9 *Petitioner,*

10 vs.

11
12 TIMOTHY FILSON, *et al.,*

13 *Respondents.*
14

3:17-cv-00693-HDM-VPC

ORDER

15 This habeas matter under 28 U.S.C. § 2254 comes before the Court on a pending
16 show-cause inquiry as to whether the Court lacks jurisdiction over the petition because it
17 constitutes a successive petition.

18 The April 13, 2018, order of the Court of Appeals denying petitioner's application for
19 authorization to file a second or successive petition was entered following review of the
20 application in the appellate court, the petition in this matter, and this Court's November 29,
21 2017, show cause order outlining, *inter alia*, the relevant procedural history. (ECF No. 10, at
22 1.) The Ninth Circuit's denial of petitioner's application, following review of the foregoing
23 materials, establishes as the law of the case in this lower court both that the petition is
24 successive and that petitioner has not established a viable basis for authorization to pursue
25 the successive petition under 28 U.S.C. § 2244(b)(2). Further proceedings on the Court's
26 pending show-cause inquiry therefore would be futile.

27 IT THEREFORE IS ORDERED that the petition shall be DISMISSED without prejudice
28 for lack of jurisdiction.

The Clerk of Court shall enter final judgment accordingly, dismissing this action without prejudice.

DATED: April 16, 2018.

Howard D McKibbin

HOWARD D. MCKIBBEN
United States District Judge